

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN JOHN WITT**, on February 12, 1999 at
8:07 A.M., in Room 201 Capitol.

ROLL CALL

Members Present:

Rep. John Witt, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. William Crismore (R)
Rep. Dick Haines (R)
Sen. Linda Nelson (D)
Rep. Joe Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Summer Alger, Committee Secretary
Roger Lloyd, Legislative Branch
Shirley Moore, OBPP

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 2 - Dept. of Environmental Quality Budget
Executive Action: HB 2 - Dept. of Environmental Quality Budget

Shirley Moore handed out to the committee the requested response
by **Greg DeWitt** and herself, on the Impacts Resulting from
Proposed Committee Bills for POL Fee Increases. **Roger Lloyd**
commented, as did **Sen. Keating** who added that the Montana Supreme
Court will hear the verbal arguments of CI-75 on 2/16/99.

EXHIBIT (jnh35a01)

Mr. Lloyd handed out Differences from the Executive Budget as of
2/12/99.

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EXHIBIT(jnh35a02)

HEARING ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

Mr. Lloyd asked the committee to correct the numbers in DP 40031 and DP 40072 on page **C-73** of the Legislative Budget Analysis 2001 Biennium: Agency Budgets, Vol. 1, January 1999, LFD.

**The Legislative Budget Analysis 2001 budget book will not be referred to as an exhibit, however, information from other sources will be noted as exhibits.*

Denise Mills, Administrator, Remediation Division, began discussion of the division decision packages.

Present Law Adjustments

DP 40013

Mr. Lloyd commented on the LFD Issue, and **Ms. Mills** responded while referring to the 3rd blue sheet with pie chart in the DEQ - RD overview packet write-up (Exhibit 3, 2/11/99). **Sen. Keating** remarked that they are asking for spending authority since they do not have the money, to which she replied yes, while referring to page DEQ-RD 14 (Exhibit 3, 2/11/99).

Rep. Tropila questioned **Ms. Mills** on the sheets that show priority, and **Mr. Lloyd** commented on the \$1 million at \$500,000 per year. **Sen. Keating** asked for clarification, **Mr. Lloyd** responded as did **Ms. Mills**, who stated that it is not a funding switch, but a new source of federal funding spending authority.

Sen. Keating asked how much they are getting, total, in the next biennium, and **Mr. Lloyd** replied with reference to Table 11 on page **C-70** of the LBA 2001 budget book. The Senator then inquired if, with the spending authority, they can shift it around to use elsewhere. **Theresa Scott** replied that if they were to shift the spending authority, they could only shift with federal funds.

Senator Keating asked if **Ms. Mills** anticipates spending more in FY99 than in FY98, and **Ms. Scott** replied no, because there was a surplus in FY98 and it was spent. The Senator then inquired if they are actually asking for a reduction of federal funds of \$1.3 million, and **Mr. Lloyd** commented that the base was increased due to carry-over funds.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 1; Side : A; Approx. Time Counter : 26.6}

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Motion/Vote: SEN. KEATING moved that DP 40013 BE ADOPTED.
SECONDED by SEN. CRISMORE. Motion carried unanimously.

DP 40023

Ms. Mills gave a summarized this decision package, while **Mr. Lloyd** discussed the LFD Issue. **Ms. Mills** responded to the issue of the yet unidentified federal funding, which is not related to this, and is not a funding switch, but is still federal superfund spending authority.

Sen. Keating, in referring to Table 11 on page C-70 of the LBA 2001 budget book, asked if the Silverbow \$7.35 million is federal funds or ARCO dollars, if it includes new proposals, and what exactly the reduction will reduce. He then inquired if ARCO or the State will do the reclamation work.

Rep. Tropila was concerned about the unidentified federal funds, and **Sen. Keating** responded that with no money, there is no spending, and that the committee is just voting on spending authority. **Rep. Haines** inquired about an appropriation restriction, to which **Sen. Keating** replied that there is no need because some is design money and some for construction. **Mr. Lloyd** clarified that the committee is strictly voting on the reduction, but the \$1 million is already in the base.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 1; Side : B; Approx. Time Counter : 10.5}

Motion/Vote: SEN. KEATING moved that DP 40023 BE ADOPTED.
SECONDED by SEN. CRISMORE. Motion carried unanimously.

Sen. Keating inquired as to what is used for continued match of \$1.7 million, and **Ms. Mills** replied that the Hazardous Waste CERCLA Account will be used, in reference to the RIT chart on page C-127 of the LBA 2001 budget book. **Mr. Lloyd** commented that it is an issue and it will be discussed further later.

DP 40031

Curt Chisholm commented and recommended the passage of this decision package.

DP 40041

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{Tape : 1; Side : B; Approx. Time Counter : 14.6}

Motion/Vote: SEN. KEATING moved that DP 40041 BE ADOPTED.
SECONDED by SEN. CRISMORE . Motion carried unanimously.

DP 40054

Sen. Keating asked if this required matching funds, and Sen. Nelson questioned the use of contracted services. Chairman Witt asked for a list of contractors, then Sen. Nelson inquired if this proposal is tied to HB 158, to which Ms. Mills replied no.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 1; Side : B; Approx. Time Counter : 19.8}

Motion/Vote: SEN. KEATING moved that DP 40054 BE ADOPTED AS ONE-TIME-ONLY AND RESTRICTED. SECONDED by SEN. CRISMORE. Motion carried 4-2 with Nelson and Witt voting no.

DP 40064

Rep. Haines inquired if all positions are full now, and Sen. Keating asked what projects are being worked on in this program. He also asked what Orphan Share activities they have under this program, and how many people are under this bureau. Chairman Witt asked about contractors, and if the agreements are longterm or based on individual projects.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 1; Side : B; Approx. Time Counter : 28.5}

Motion/Vote: SEN. KEATING moved that DP 40064 BE ADOPTED. Motion carried unanimously.

*Rep. Tropila was not present.

DP 40072

Sen. Nelson inquired how this proposal relates if HB 158 does not go anywhere, Ms. Mills replied that they would not need cash put in, and then the Senator asked Mr. Lloyd if it will just go away then, to which he replied no. Ms. Scott commented that the \$3,000 just in FY00 would need to be taken out. Mr. Lloyd then asked her about grants to counties, for over-site also. Sen. Keating inquired about HB 158, Chairman Witt commented, and Director Simonich gave an overview.

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Chairman Witt asked about Leaking Underground Storage Tanks (LUST) and contracting with local government. The committee then went on to discuss the idea of program expansion and increased fees.

Sen. Keating inquired if, by in large, most of the tank leaks they are dealing with are abandoned. The division replied not really, and further discussion followed.

Chairman Witt asked what the incentives are for owners to come forward and get penalized. Upon response, the department noted that owners have been penalized in the past due to the lack of much inspection. **Sen. Crismore** commented on inspection, remarking that he thinks of tank inspection as a service.

Chairman Witt asked the Senator if they have to carry containment equipment in the trucks for spill clean up, to which the response was that there are no regulations of the sort.

Break @ 9:37am {Tape : 2; Side : A; Approx. Time Counter : 31}

Mr. Lloyd commented on saving general fund money in regards to the requested NRIS appropriation, and **Sen. Keating** commented that he does not want to do anything here in the absence of library representatives.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 2; Side : B; Approx. Time Counter : 2.6}

Motion/Vote: SEN. KEATING moved that DP 40072 BE ADOPTED EXCLUDING FUNDS SUBJECT TO HB 158. SECONDED by REP. HAINES. Motion carried 5-1 with Nelson voting no.

DP 40082

Director Simonich commented on the one-stop licensing program, and **Mr. Lloyd** commented on the database and Table 6 on page C-54 of the LBA 2001 budget book.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 2; Side : B; Approx. Time Counter : 10.2}

Motion/Vote: SEN. KEATING moved that DP 40082 AS ONE-TIME-ONLY AND RESTRICTED BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried 5-1 with Witt voting no.

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DP 40093 & New Proposal DP 40103

Director Simonich directed the committee to look at this decision package and new proposal DP 40103, and proposed to withdraw them both.

Sen. Crismore asked **Director Simonich** if they did get federal money would he increase the workload. He replied no, that, if the court approved, ARCO pays all. **Sen. Crismore** then asked to pass consideration.

Mr. Lloyd then addressed the second LFD Issue on grant requests under DP 40103 on page **C-75** of the LBA 2001 budget book. **Director Simonich** commented on HB 7.

DP 40114

Following comment from **Ms. Mills** and **Mr. Lloyd**, **Sen. Keating**, referring to the RIT chart on page **C-127**, asked if there are any expenditures from the \$1.3 million in the Orphan Share Account. She replied no, and the Senator then inquired how this decision package affects the balance.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 2; Side : B; Approx. Time Counter : 23.3}

Motion/Vote: **SEN. KEATING** moved that **DP 40114 BE ADOPTED**.
SECONDED by **SEN. NELSON**. Motion carried unanimously.

DP 40124

Ms. Mills referred to the Ground Water Remediation Program table on page RD 28 of the DEQ overview packet (Exhibit 3, 9/11/99).

Sen. Keating inquired if there is an EPA performance partnership grant (yes), and if a match is required (no).

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 2; Side : B; Approx. Time Counter : 25.8}

Motion/Vote: **SEN. CRISMORE** moved that **DP 40124 BE ADOPTED**.
SECONDED by **REP. TROPILA**. Motion carried unanimously.

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Mr. Lloyd discussed the Environmental Quality Protection Fund on page **C-75** of the LBA 2001 budget book, commenting that it appears the fund will have a negative account in FY01 with action today.

Curt Chisholm handed out a sheet on the EQPF Loan Repayment Schedule.

EXHIBIT(jnh35a03)

He then referred to the RIT chart on page **C-127** of the LBA 2001 budget book, and discussed the Environmental Quality Protection Fund and the outstanding loan. **Sen. Keating** questioned if in using own general fund to pay loan, will there be any reversion to the ending fund balance. **Director Simonich** replied yes, if general fund money is not spent, then it will revert.

Mr. Lloyd questioned the general fund loan, and commented to the committee that he needs a motion directing him to change revenue estimates as laid out in EQPF Loan Repayment Schedule or "Plan C" (Exhibit 3).

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 3; Side : A; Approx. Time Counter : 10}

Motion/Vote: SEN. KEATING moved that THE DEPARTMENTS "PLAN C" TO BE INCLUDED IN HB 2 LANGUAGE BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried unanimously.

Ms. Mills asked for biennial authority for Abandoned Mines, LUST and Orphan Share Benefit programs.

EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - REMEDIATION DIVISION

{Tape : 3; Side : A; Approx. Time Counter : 12}

Motion/Vote: SEN. KEATING moved that BIENNIAL APPROPRIATION FOR ABANDONED MINES, LUST, AND ORPHAN SHARE BENEFIT PROGRAMS BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried unanimously.

Ms. Mills followed up on a couple of issues from the previous meeting, including a discussion on the "Ma & Pa" convenient stores.

HEARING ON HB 2 - PETROLEUM TANK RELEASE COMPENSATION BOARD

DP 1, DP 2 & DP 3

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Dexter Busby, MT Refining Company, Great Falls, commented on air quality fees. **Rep. Tropila** asked about the fee rate, and commented that he feels the requested amount of increase in fees of 45% is a bit excessive. **Rex Manuel, Cenex Mfg., Laurel,** commented on this issue, remarking that the increase is too much and would like to maintain the present level. He also commented on the FTE's. **Gail Abercrombie, Executive Director, MT Petroleum Board,** commented that there is not a return on investments with these fees. **Chairman Witt** then read a letter from Asarco asking the committee not to increase the fees.

Director Simonich then began the overview discussion for the Petroleum Tank Release Compensation Board section. **Sen. Keating** questioned the number of FTE's on board, and **Sen. Nelson** asked if the board members have staggered terms and if they from around the state.

Sen. Keating asked about the legal fees, and if they are in addition to the base. He then inquired if they spent their whole appropriation for FY98, and if they anticipate a surplus in FY99,

Sen. Keating called to pass consideration on DP 2 because it deals with indirect costs.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PETROLEUM TANK RELEASE
COMPENSATION BOARD**

{Tape : 3; Side : A; Approx. Time Counter : 21.4}

Motion/Vote: SEN. KEATING moved that DP 1 & DP 3 BE ADOPTED.
SECONDED by SEN. CRISMORE. Motion carried unanimously.

The department then handed out the Permitting & Compliance Division (PCD) section of the DEQ overview packet.

EXHIBIT (jnh35a04)

ADJOURNMENT

Adjournment: 11:17 A.M.

REP. JOHN WITT, Chairman

SUMMER ALGER, Secretary

JW/SA

EXHIBIT (jnh35aad)